

REMARKS

Claims 24-29 are currently pending in the application. Applicant has amended independent claim 24 and added independent claim 29. Support for the amendment to independent claim 24 can be found throughout the specification and particularly on page 11 of the specification, as originally filed. Applicant requests reconsideration of the application in light of the following remarks.

Double Patenting Rejection

Claims 24-27 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,715,893. In order to avoid further expenses and time delay, Applicant elects to expedite the prosecution of the present application by filing a terminal disclaimer to obviate the double patenting rejections in compliance with 37 CFR §1.321 (b) and (c). Applicant's filing of the terminal disclaimer should not be construed as acquiescence of the Examiner's double patenting or obviousness-type double patenting rejections. Attached is the terminal disclaimer and accompanying fee.

Claims 24-26 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,799,857. In order to avoid further expenses and time delay, Applicant elects to expedite the prosecution of the present application by filing a terminal disclaimer to obviate the double patenting rejections in compliance with 37 CFR §1.321 (b) and (c). Applicant's filing of the terminal disclaimer should not be construed as acquiescence of the Examiner's double patenting or obviousness-type double patenting rejections. Attached is the terminal disclaimer and accompanying fee.

Claims 24-26 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 19 of U.S. Patent No. 6,979,089. In order to avoid further expenses and time delay, Applicants elect to expedite the prosecution of the present application by filing a terminal disclaimer to obviate the double patenting rejections in compliance with 37 CFR §1.321 (b) and (c). Applicant's filing of the terminal disclaimer should not be construed as acquiescence of the Examiner's double patenting or obviousness-type double patenting rejections. Attached is the terminal disclaimer and accompanying fee.

Rejections under 35 U.S.C. §102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 24-26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ben-Ghiath (U.S. Patent No.5,666,227, hereinafter "Ben-Ghiath"). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

The Examiner relies on Figure 1D of Ben-Ghiath to anticipate claims 24-26. Independent claim 24, as amended, recites "wherein the first lateral view mirror and the second lateral view mirror are separately coupled." The lateral view mirror assembly of the present claims uses first and second lateral view mirrors positioned separately, for example, on either side of a brake light, in place of a single lateral view mirror assembly, as disclosed by Lorenzo. Therefore, Ben-Ghiath fails to anticipate claims 24-26.

Further, new independent claim 29 has been added which incorporates the subject matter of independent claim 24 with the subject matter of dependent claim 27 and the subject matter of dependent claim 28, both not rejected as anticipated by Ben-Ghiath.

Claims 24-26 and 28 were rejected under 35 U.S.C. § 102(b) as being anticipated by Davis II (U.S. Patent No. 5,424,875, hereinafter “Davis”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

The Examiner relies on Figures 1 and 2 of Davis to anticipate claims 24-26 and 28. Independent claim 24, as amended, recites “wherein the first lateral view mirror and the second lateral view mirror are separately coupled.” The lateral view mirror assembly of the present claims uses first and second lateral view mirrors positioned separately, for example, on either side of a brake light, in place of a single lateral view mirror assembly, as disclosed by Lorenzo. Therefore, Davis fails to anticipate claims 24-26 and 28.

Further, new independent claim 29 has been added which incorporates the subject matter of independent claim 24 with the subject matter of dependent claim 27, not rejected as anticipated by Davis, and the subject matter of dependent claim 28

Claims 24-27 were rejected under 35 U.S.C. § 102(b) as being anticipated by Yang (U.S. Patent No. 0235993 hereinafter “Yang”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

The Examiner relies on Figures 2, 4 and 5 of Yang to anticipate claims 24-27. Independent claim 24, as amended, recites “wherein the first lateral view mirror and the second lateral view mirror are separately coupled.” The lateral view mirror assembly of the present claims uses first and second lateral view mirrors positioned separately, for example, on either side of a brake light, in place of a single lateral view mirror assembly, as disclosed by Yang. Therefore, Yang fails to anticipate claims 24-27.

Further, new independent claim 29 has been added which incorporates the subject matter of independent claim 24 with the subject matter of dependent claim 27 and the subject matter of dependent claim 28, not rejected as anticipated by Yang.

Claims 24-28 were rejected under 35 U.S.C. § 102(b) as being anticipated by Lorenzo (U.S. Patent No. 6407141, hereinafter “Lorenzo”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

The Examiner relies on Figures 1 and 2 of Lorenzo to anticipate claims 24-28. Independent claim 24, as amended, recites “wherein the first lateral view mirror and the second lateral view mirror are separately coupled.” The lateral view mirror assembly of the present claims uses first and second lateral view mirrors positioned separately, for example, on either side of a brake light, in place of a single lateral view mirror assembly, as disclosed by Lorenzo. Therefore, Lorenzo fails to anticipate claims 24-28.

Applicant respectfully requests that the anticipation rejections of claims 24-28 be withdrawn.

Rejections under 35 U.S.C. §103

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based

upon the Applicants' disclosure. A failure to meet any one of these criteria is a failure to establish a *prima facie* case of obviousness. MPEP §2143.

Claims

Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ben-Ghiath (U.S. Patent No. 5,666,227, hereinafter "Ben-Ghiath"), in view of Lorenzo (U.S. Patent No. 6407141, hereinafter "Lorenzo"). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Lorenzo fails to overcome the deficiencies of the primary reference, Ben-Ghiath, for the same reasons as set forth, *supra*.

Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis II (U.S. Patent No. 5,424,875, hereinafter "Davis"), in view of Lorenzo (U.S. Patent No. 6407141, hereinafter "Lorenzo"). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Lorenzo fails to overcome the deficiencies of the primary reference, Davis, for the same reasons as set forth, *supra*.

Applicant respectfully requests that the obviousness rejections of claims 24-28 be withdrawn.

Appl. No.: 09/875,212
Amdt. Dated: November 10, 2009
Reply of Office action of May 11, 2009

Docket No. MART-12278

Regarding Doctrine of Equivalents

Applicant hereby declares that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

CONCLUSION

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

It is requested that a three-month extension of time be granted for the filing of this response, and the appropriate extension filing fee of \$555 is enclosed herewith.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

Date: November 10, 2009

By: /Lori F. Cuomo/

Lori F. Cuomo
Reg. No. 34,527

SCHMEISER, OLSEN & WATTS LLP

18 East University Drive, #101
Mesa, AZ 85201
(480) 655-0073
Customer No. 23123